IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

Crl.MC.No. 2312 of 2007()

CC.1406/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT, KODUNGALLUR

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PETITIONER: ACCUSED

SHIHAB, AGED 29, S/O.IBRAHIM.,
PANIKKASSERY HOUSE,
NATTIKA P.O., THRISSUR.

BY ADV. SRI.K.A.MINA
SRI.JOSHY THOMAS

RESPONDENTS: COMPLAINANT

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1. SUB INSPECTOR OF POLICE
VALAPPADU POLICE STATION,KODUNGALOOR.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C.No. 2312 Of 2007

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Dated this the 19th day of July, 2007

ORDER

Petitioner is the sole accused in a prosecution for offences punishable, inter alia, under Section 380 IPC. The matter was posted for orders. It was reopened and posted for further hearing. At that stage- from 16.10.06, the petitioner could not appear and a warrant of arrest has been issued against the petitioner and notice to sureties by the learned Magistrate. The petitioner finds such processes chasing him now. The counsel for the petitioner submits that the petitioner is absolutely innocent and his absence earlier was not wilful but was on account of reasons beyond his control. The petitioner is now willing to surrender before the learned Magistrate, but he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He therefore prays that a direction may be issued under section 482 Cr.P.C. to the learned Magistrate to release him on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate.

I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C.is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are compelling reasons.

4. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE